

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Tessa Yesselman	Team: Squad #12	CCRB Case #: 201704891	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Friday, 06/16/2017 12:33 PM	Location of Incident: § 87(2)(b)	Precinct: 14	18 Mo. SOL 12/16/2018	EO SOL 12/16/2018	
Date/Time CV Reported Fri, 06/16/2017 1:30 PM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Fri, 06/16/2017 1:30 PM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Witness(es)	Home Address
§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. SGT Frederic Ortiz	03659	935440	MTS PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Nicholas Pastore	16727	957937	MTS PCT
2. POM Joseph Buck	21808	950122	MTS PCT
3. POM Nicholas Mitchell	29512	953117	MTS PCT
4. POF Dineen Lopez	7879	955084	MTS PCT
5. POM John Connelly	17052	957480	MTS PCT

Officer(s)	Allegation	Investigator Recommendation
A.SGT Frederic Ortiz	Abuse: Sergeant Frederic Ortiz threatened to arrest § 87(2)(b)	§ 87(2)(b)

Case Summary

On June 16, 2017, § 87(2)(b) filed this complaint with the CCRB via the telephone (**11 Board Review**).

§ 87(2)(b) is the owner of a kick boxing gym located at § 87(2)(b), in Manhattan, and has one employee at the gym, § 87(2)(b). On June 16, 2017, an individual called 911 to report that § 87(2)(b) had assaulted him in the lobby of § 87(2)(b). As a result of the reported assault, Sergeant Frederic Ortiz, Police Officer Nick Mitchell, Police Officer Nicholas Pastore, and Police Officer John Connelly of the 14th Precinct responded to § 87(2)(b). While inside of the gym on the § 87(2)(b) floor, Sgt. Ortiz threatened to arrest § 87(2)(b) (**Allegation A**).

§ 87(2)(b) was arrested and charged with § 87(2)(b) (**08 Board Review**).

§ 87(2)(b) provided cell phone video footage of both threats of arrest. See the allegation below for corresponding footage.

Mediation, Civil and Criminal Histories

- § 87(2)(b) declined to mediate this complaint.
- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]
§ 87(2)(b)
- As of August 23, 2017, a FOIL request to the Office of the Comptroller is pending.

Civilian and Officer CCRB Histories

- This is the first CCRB complaint to which § 87(2)(b) has been party (**09 Board Review**).
- Sgt. Ortiz has been a member of service for thirteen years and has thirty two previous complaints, with four substantiations. In CCRB case no. 201602490, four allegations of physical force were substantiated against Sgt. Ortiz. The CCRB recommended Command Discipline A, and Sgt. Ortiz received Command Discipline A. Sgt. Ortiz has three previous threat of arrest allegations.

Findings and Recommendations

Allegation A –Abuse of Authority: Sergeant Frederic Ortiz threatened to arrest § 87(2)(b) § 87(2)(b) (**01 Board Review**) stated that Sgt. Ortiz, PO Mitchell, PO Pastore, and PO Connelly entered the § 87(2)(b) floor of § 87(2)(b), and arrested § 87(2)(b) § 87(2)(b) repeatedly asked the officers why they were in his business, and did not receive a response. Sgt. Ortiz stated that there was video of § 87(2)(b) assaulting an individual downstairs, and § 87(2)(b) asked to see the video. § 87(2)(b) was standing behind a desk, approximately three feet away from the officers. The officers walked § 87(2)(b) into the changing room, and § 87(2)(b) walked out from behind the desk, and entered into the waiting room to continue recording. § 87(2)(b) made sure to maintain his distance from the officers. § 87(2)(b) continued to ask the officers why they were arresting § 87(2)(b) and about the video that they said they had of § 87(2)(b) assaulting someone. Sgt. Ortiz told § 87(2)(b) that he would arrest him. § 87(2)(b) asked Sgt. Ortiz what he would be arrested for, and Sgt. Ortiz responded that he could be arrested for trespassing, and that

he was violating the officer's privacy. § 87(2)(b) asked Sgt. Ortiz how he could be trespassing in his own business.

Cell phone video shows § 87(2)(b) follow the officers and § 87(2)(b) into the locker room. PO Pastore and PO Connelly are pictured standing around § 87(2)(b) and Sgt. Ortiz and PO Mitchell are pictured interacting with § 87(2)(b). Sgt. Ortiz tells § 87(2)(b) approximately seven times to step outside of the locker room. § 87(2)(b) does not comply, and continues to ask Sgt. Ortiz if he can see the video of the alleged assault against § 87(2)(b). Sgt. Ortiz also tells § 87(2)(b) that he is invading their privacy, and is heard saying if § 87(2)(b) does not step outside, he will place him under arrest, and asks if he wants to be arrested.



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PO Pastore (**05 Board Review**) and PO Mitchell (**04 Board Review**) did not hear Sgt. Ortiz threaten to arrest § 87(2)(b) in the locker room. PO Pastore and PO Mitchell both described the locker room where § 87(2)(b) was changing as small.

Sgt. Ortiz (**03 Board Review**) stated that when he responded to § 87(2)(b), he met with a victim in the lobby of the building who stated that he had been assaulted by § 87(2)(b). The doorman of the building told Sgt. Ortiz that § 87(2)(b) could be found on the second floor, and that he was a trained fighter. The doorman advised Sgt. Ortiz to call for backup. Sgt. Ortiz called for another unit to respond to the location, and wanted to go into the gym and arrest § 87(2)(b) as quickly as possible, because he was a trained fighter. Sgt. Ortiz, PO Mitchell, and two officers from a foot post in the area (identified by the investigation as PO Pastore and PO Connelly) entered the gym to arrest § 87(2)(b).

Sgt. Ortiz stated § 87(2)(b) was handcuffed without incident, and was calm and compliant throughout the entire incident. § 87(2)(b) was recording the officer's interaction with § 87(2)(b) and was attempting to "rile" § 87(2)(b) up, by saying that § 87(2)(b) should not be arrested, and asking the officer's for their name and shield numbers. The officer's walked § 87(2)(b) into a locker room so that he could get dressed to go outside. § 87(2)(b) followed the group into the locker room. Sgt. Ortiz told § 87(2)(b) repeatedly to leave the locker room, because the locker room was a confined, tight space, and because § 87(2)(b) and § 87(2)(b) were both trained fighters, and he did not want to get into a confrontation with either of them. Sgt. Ortiz also wanted § 87(2)(b) to leave the room because he thought that § 87(2)(b) might need to be uncuffed, in order to put clothes and shoes on. § 87(2)(b) did not leave the room, and continued trying to rile § 87(2)(b) up. Sgt. Ortiz did not recall telling § 87(2)(b) that he could arrest him in the locker room.

§ 87(2)(b) (**02 Board Review**) did not hear any officer threaten to arrest § 87(2)(b).

When shown the video, Sgt. Ortiz (**03 Board Review**) stated that he recalled repeatedly telling § 87(2)(b) to step outside, but did not know if he told him that he could arrest him. Sgt. Ortiz stated that he told § 87(2)(b) he would arrest him when § 87(2)(b) followed the officers and § 87(2)(b) downstairs. Sgt. Ortiz thought that § 87(2)(b) was attempting to tape the victim of the

alleged assault, and instructed him to stop, and exit the area. Video footage of Sgt. Ortiz and § 87(2)(b) interaction downstairs does not contain a threat of arrest.



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The ICAD (**07 Board Review**) generated in regards to this incident shows that a male caller stated he got punched in his face and was bleeding.

A person is guilty of obstructing governmental administration when he intentionally obstructs, impairs, or perverts the administration of law or other governmental function or prevents or attempts to prevent a public servant from performing an official function, by means of intimidation, physical force or interference, or by means of any independently unlawful act, or by means of interfering, whether or not physical force is involved, with radio, telephone, television or other telecommunications systems (N.Y. Penal Law 195.05).

§ 87(2)(g)
[Redacted text block]

Squad: 12

Investigator: _____
Signature Print Date

Squad Leader: _____
Title/Signature Print Date